

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;  
Mark Acton, Vice Chairman;  
Nanci E. Langley; and  
Robert G. Taub

Sublime Post Office  
Sublime, Texas

Docket No. A2011-45

ORDER AFFIRMING DETERMINATION

(Issued December 6, 2011)

I. INTRODUCTION

On August 11, 2011, Betty Bunch filed a petition on behalf of the Save the Sublime Post Office Committee seeking review of the Postal Service's Final Determination to close the Sublime, Texas post office (Sublime post office).<sup>1</sup> After reviewing the record in this proceeding, the Commission affirms the Final Determination to close the Sublime post office.

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<sup>1</sup> Petition for Review received from Betty Bunch, Committee Chair, regarding the Sublime, Texas Post Office 77986, August 11, 2011 (Petition).

## II. PROCEDURAL HISTORY

On August 12, 2011, the Commission established Docket No. A2011-45 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.<sup>2</sup>

On August 26, 2011, the Postal Service filed the Administrative Record with the Commission.<sup>3</sup>

Petitioner filed a Participant Statement in support of the appeal.<sup>4</sup> The Postal Service filed comments requesting that the determination to close the Sublime post office be affirmed.<sup>5</sup> The Public Representative filed comments.<sup>6</sup>

## III. BACKGROUND

The Sublime post office, an EAS-53 level facility, provides retail service from 9:15 a.m. to 12:45 p.m., Monday through Saturday. Final Determination at 2. Lobby access is available 24 hours a day, Monday through Saturday. *Id.* In addition to providing retail services, *e.g.*, sale of stamps, stamped paper, and money orders, it provides service to 48 post office box customers. *Id.*

The Sublime post office averaged 9 transactions daily (10 minutes of retail workload). Office receipts for the last 3 years were \$19,611 in FY 2008; \$15,137 in FY 2009; and \$9,196 in FY 2010. *Id.* There are no permit mailers or meter customers. *Id.*

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<sup>2</sup> Order No. 801, Notice and Order Accepting Appeal and Establishing Procedural Schedule, August 12, 2011.

<sup>3</sup> The Administrative Record is included with the United States Postal Service Notice of Filing, August 26, 2011; see *also* United States Postal Service Notice of Filing, October 10, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Sublime, TX Post Office and Continue to Provide Service by Rural Route Service (Final Determination).

<sup>4</sup> Participant Statement received from Betty Bunch, September 16, 2011.

<sup>5</sup> United States Postal Service Comments Regarding Appeal, October 5, 2011 (Postal Service Comments).

<sup>6</sup> Comments of the Public Representative, October 23, 2011 (PR Comments).

The postmaster position became vacant when the Sublime postmaster was promoted on January 12, 2010. *Id.* A non-career officer-in-charge (OIC) was installed to operate the office. *Id.*

The Postal Service has made a determination to close the Sublime post office and provide customers with delivery and retail services by rural route service under the administrative direction of the Hallettsville post office, located 10 miles away.<sup>7</sup> Service will be provided to cluster box units (CBUs). *Id.* The Hallettsville post office is an EAS-18 level facility, with retail service hours from 8:00 a.m. to 4:00 p.m., Monday through Friday, and from 9:00 a.m. to 11:00 p.m., Saturday. *Id.* Fifty-four post office boxes are available. *Id.*

#### IV. PARTICIPANT PLEADINGS

*Petitioner.* Petitioner objects to the Postal Service's justifications for closing the Sublime post office. Petition at 1. She states that the absence of a postmaster is not the community's fault, but is due to the Postal Service not posting for a replacement since January 2010. She asserts that the Postal Service is to provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self sustaining, and that small post offices cannot be closed solely for operating at a deficit. Finally, citing to 39 U.S.C. § 404(d)(2)(B), she contends that the lack of a restroom or running water cannot be considered by the Postal Service.

*Postal Service.* The Postal Service argues that the Commission should affirm its determination to close the Sublime post office. Postal Service Comments at 12. The Postal Service believes the main issue raised by the appeal is the provision of a maximum degree of effective and regular postal services to the community. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious

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<sup>7</sup> *Id.*; MapQuest estimates the driving distance between the Sublime and Hallettsville post offices to be approximately 8.14 miles (9 minutes driving time).

consideration and concludes the determination to discontinue the Sublime post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Sublime post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload, low and decreasing office revenue;
- variety of delivery and retail options (including the convenience of rural delivery and retail service);
- minimal impact upon the community; and
- expected financial savings.

*Id.* at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Sublime community when the Final Determination is implemented. *Id.*

The Postal Service also addresses the concerns raised by Petitioner regarding the effect on postal services, effect on the Sublime community, economic savings, and effect on postal employees. *Id.* at 5-11.

*Public Representative.* The Public Representative concludes that Sublime customers will continue to receive regular and effective postal service administered through the Hallettsville post office. PR Comments at 5. However, the Public Representative expresses concern about the 10-mile distance to the alternative postal facility. The Public Representative also notes problems in the calculation of economic savings, such as inconsistencies in the cost of replacement services and accounting for the costs of CBUs and parcel lockers.

## V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record

that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be: (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On March 2, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Sublime post office. Final Determination at 2. A total of 48 questionnaires were distributed and 19 were returned. *Id.* On March 16, 2011, the Postal Service held a community meeting at the Sublime post office to address customer concerns. *Id.* Thirteen customers attended. *Id.*

The Postal Service posted the proposal to close the Sublime post office with an invitation for comments at the Sublime and Hallettsville post offices for approximately 60 days, from April 18, 2011 through June 19, 2011. Administrative Record, Item Nos. 32,

36. The Final Determination was posted at the Sublime and Hallettsville post offices for approximately 30 days, from July 13, 2011 through August 14, 2011. *Id.*, Item No. 49.

Based on a review of the record, the Commission finds that the Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

#### B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A). Also, section 101(b) prohibits the Postal Service from closing any small post office solely for operating at a deficit.

*Effect on the community.* Sublime, Texas is an unincorporated community located in Lavaca County, Texas. *Id.* Item No. 16. Police protection is provided by the Lavaca County Sheriff's Department. *Id.* Fire protection is provided by the Hallettsville Fire Department. *Id.* The community is comprised of farmers, ranchers, and senior citizens. *Id.* The questionnaires completed by Sublime customers indicate, in general, that commenters and others who reside in Sublime must travel elsewhere for other supplies and services. Postal Service Comments at 8.

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Sublime post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Proposal to Close and the Final Determination.

For example, in response to concerns expressed by customers about the loss of community identity, the Postal Service explained that a community's identity derives from the interest and vitality of its residents and their use of its name, and that the

Postal Service is helping to preserve community identity by continuing the use of Sublime, TX 77986 in addresses. Final Determination at 3.

The Commission finds that the Postal Service has taken the effect on the community into account.

*Effective and regular postal service.* The Postal Service contends that it has considered the effect the closing will have on service. Postal Service Comments at 5-8. For example, customers raised concerns about mail security and the impact on senior citizens. The Postal Service explained that it will be installing CBUs to replace current P.O. boxes. The Postal Service states that CBUs provide the security of individually locked mail compartments. The Postal Service has received no reports of mail theft or vandalism in the area. *Id.* at 3.

The Postal Service also considered the impact of the closing of the Sublime post office on senior citizens. The Postal Service explained that services provided at the Sublime post office will be available from the carrier. The carrier can provide delivery and retail service to roadside mailboxes or cluster box units, and customers do not have to make a special trip to the post office for service. In addition, special provisions can be made for hardship cases or special customer needs. *Id.*

Petitioner, noting Postal Service comments on lack of running water or restrooms, contends that the Postal Service may not consider compliance with any portion of the Occupational Safety and Health Act of 1970 (OSHA) in its decisions. See 39 U.S.C. § 404(d)(2)(B); Petition at 1. The Postal Service contends that the condition of the facility was only provided as background information, and that it does not imply the facility's condition is inconsistent with OSHA standards. Postal Service Comments at 7.

The Commission notes that the Postal Service in fact cited to the lack of running water and restroom facilities as reasons for considering the closure in the Final Determination. Final Determination at 2. However, the Postal Service also cited to other factors for closure in the Final Determination, and did not allege that the facility deficiencies were contrary to OSHA requirements. The Commission concludes that

lack of running water and restroom facilities can be considered separate from any OSHA issue because they can impact an employee's ability to provide effective and regular postal services.

Upon review of the record in this proceeding, the Commission concludes that the Postal Service has considered its ability to provide a maximum degree of effective and regular service. 39 U.S.C. § 404(d)(2)(A)(iii).

*Economic savings.* The Postal Service estimates total annual savings of \$16,152. It derives this figure by summing the following costs: postmaster salary and benefits \$20,492; and annual lease costs \$480, minus the cost of replacement service \$4,820. Final Determination at 5-6. The Postal Service also notes an additional one-time expense of \$2,213 for moving the office (installation of CBUs). This amount reduces the savings during the first year, which the Postal Service does not indicate in its projected savings.

The Sublime postmaster was promoted on January 12, 2010. Since that time, the post office has been run by a temporary OIC, a non-career postmaster relief (PMR). Final Determination at 2. The PMR may be separated from the Postal Service. *Id.* at 5.

The Postal Service's consideration of estimated cost savings needs to be improved. By its own admission, the OIC currently serving as postmaster relief may or may not be terminated. As we have noted in previous orders, without any assurance that the OIC will be terminated, the salary and related benefits identified in the Final Determination as economic savings might not be realized. In future cases, the Postal Service should either confirm that salary and benefit savings will be realized, or provide a more complete discussion of why such salary and benefit costs should be considered savings.

The Postal Service has accounted for the cost of installing CBUs. However, the Public Representative notes that the Postal Service has not accounted for the cost of installing parcel lockers. PR Comments at 5.

The record indicates that the Postal Service definitely will be installing CBUs, but that the installation of parcel lockers remains under consideration. Final Determination



at 2. It would be appropriate for the Postal Service to determine if parcel lockers will be installed before a final determination is made and include the cost of installation, if appropriate.

The Public Representative also notes that the Postal Service provide conflicting costs for replacement service. Administrative Record, Item No. 41 at 7 (\$4,820); *Id.* Item No. 17 at 2 (\$4,979.52).

The Postal Service used the \$4,820 figure in its Final Determination. Final Determination at 5. Although the discrepancy is not explained, the \$159.52 difference would not significantly affect the estimation of economic savings.

The Commission finds that the Postal Service has taken economic savings into account.

*Effect on employees.* The impact on postal employees appears to be minimal. The postmaster was promoted on January 12, 2010. An individual was installed as the temporary OIC. That individual may be separated from the Postal Service. The record shows that no other Postal Service employee would be affected by this closing. *Id.*

Petitioner states that the Postal Service has not posted for the postmaster position since January 2010, that it is not the community's fault that the position has not been filled, and that good service has been provided while operating under the OIC.

The Commission finds that filing the postmaster vacancy is under the control of the Postal Service. The vacancy can be a consideration, but should not be used as the sole reason for a closing or consolidation. In this instance, the Postal Service relies on multiple reasons for the closure in the Final Determination.

Upon review of the record in this proceeding, the Commission concludes that the Postal Service has satisfied the requirement that it consider the effect of closing on the employees at the Sublime post office. 39 U.S.C. § 404(d)(2)(A)(ii).

*Section 101(b).* Section 101(b) prohibits closing any small post office solely for operating at a deficit. Petitioner mentions this provision of the law in her pleadings.

To be sure, economics plays a role in the Postal Service's decision. Having examined the record, however, the Commission is not prepared to conclude that the

Postal Service's determination violates section 101(b). In addition to considering workload at the Sublime post office (revenues declining and averaging only 9 retail transactions per day), the Postal Service took into account other factors: the postmaster position is vacant, and the condition of the facility and the availability of alternative service. Final Determination at 2. Regular and adequate postal services will be provided to customers in Sublime.

## VI. CONCLUSION

Based on the review of the record, the Commission concludes that the Postal Service has adequately considered all requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Sublime, TX post office is affirmed.

*It is ordered:*

The Postal Service's determination to close the Sublime, Texas post office is affirmed.

By the Commission.

Shoshana M. Grove  
Secretary